

Patent
Attorney Docket: 302,670-10
(prev 265/082)

REMARKS

Claims 1-10, 25-28, and 30-48 are pending in the Application. Claims 1 and 25 have been amended. Claim 29 has been cancelled in light of the amendment made to independent claim 25. Claims 30-48 are newly added.

Initially, independent claim 1 has been amended to recite the step that selected particles are diverted from the first constrained path to the second constrained path under the force of the moving optical gradient based on the dielectric constants of the particles. Similarly, Applicants have amended independent claim 25 to include the feature of objected to claim 29, namely, the feature wherein the particles are diverted based on the dielectric constants of the particles. Claims 25-36 should thus be allowable.

Independent claim 37 is newly added and also includes the claimed feature that the diversion of the particles is based on the dielectric constants of the particles. Claims 37-48 are believed to be allowable as they include the allowable feature found in former dependent claim 29.

Applicants submit that all the claims are allowable over the prior art of record as none of the prior art disclose or suggest the claimed methods for separating particles using the constrained paths/channels wherein the particles are separated based on the dielectric constants of the particles.

In reviewing the Form PTO/SB/08A accompanying the November 10, 2003 Office Action, it appears that the following reference: *Imasaka et al*, "Optical Chromatography,"

Patent
Attorney Docket: 302,670-10
(prev 265/082)

Analytical Chemistry, Vol. 67, No. 11, pp. 1763-65, June 1, 1995 was missing from the May 23, 2002 Information Disclosure Statement. A copy of the *Imasaka et al.* reference is included herewith. Applicants request that that above-identified reference be considered by the Examiner such that the reference may appear on the face of the patent issuing from this Application.

If there are any questions concerning this paper, please contact the undersigned at (949) 737-2926.

Respectfully submitted,

O'MELVENY & MYERS LLP

Dated: 12/15/03

By: 

Michael S. Davidson
Reg. No. 43,577
Attorneys for Applicant

MSD/dnd

Customer No.

34263

PATENT TRADEMARK OFFICE

O'Melveny & Myers LLP
114 Pacifica, Suite 100
Irvine, CA 92618-3315
(949) 737-2900

URL:1050491.1